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5   UNITED STATES DISTRICT COURT

6   EASTERN DISTRICT OF WASHINGTON

7   UNITED STATES OF AMERICA,   )
)   NO.   CR-08-184-WFN-1
8   Plaintiff,   )
)
9   -vs-   )   ORDER
)
10 TERRENCE ANTHONY KINARD,   )
)
11   Defendant.   )
)
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13   Pending before the Court is the Government's Motion for Reconsideration (Ct.

14 Rec. 174). Though the Government failed to explicitly cite authority providing the basis for

15 the Motion, the Court will presume that the Government alleges that the Court made a clear

16 error of law. In support of the Motion, the Government cites *United States v. One 1985*

17 *Cadillac Seville, and Approximately $434,097.00 in United States Currency,* 866 F.2d

18 1142, 1146 (9th Cir. 1989). This case addresses in res jurisdiction where the state court

19 forfeiture proceedings are still pending. When that is the case, the district court cannot, as

20 a matter of comity, usurp the jurisdiction of the state court. However, the Court's Order

21 did not usurp jurisdiction from another court in this case because all other proceedings

22 have been completed.

23   Though the Court acknowledges that jurisdiction in this case is unusual, based on the

24 similarities between an improper forfeiture, as was the situation in this case, and improper

25 notice, where district court jurisdiction is appropriate, this Court maintains that jurisdiction

26 is appropriate. In support of the finding of jurisdiction, the Court reiterates the earlier finding

ORDER - 1

1 that Defendant submitted the required paperwork to contest forfeiture. The Court found

2 Defendant to be very credible and does not doubt the veracity of his claims.

3   The Court has reviewed the file and Motion and is fully informed. Accordingly,

4   **IT IS ORDERED** that the Government's Motion for Reconsideration, filed

5 February 2, 2010, **Ct. Rec. 174**, is **DENIED**.

6   The District Court Executive is directed to file this Order and provide copies to

7 counsel.

8   **DATED** this 11th day of February, 2010.

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10   s/ Wm. Fremming Nielsen

                                         WM. FREMMING NIELSEN

11 02-11   SENIOR UNITED STATES DISTRICT JUDGE

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ORDER - 2